

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

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MELANIE STACEL,

Plaintiff,

v.

TEVA PHARMACEUTICALS USA, INC.

Defendant.

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)  
) Case No. 08-CV-1143  
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) Judge Joan B. Gottschall  
) Magistrate Judge Jeffrey Cole  
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**DEFENDANT TEVA PHARMACEUTICAL USA, INC.'S MOTION TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Teva Pharmaceuticals USA, Inc., by its attorneys, hereby respectfully moves to dismiss Plaintiff's Second Amended Complaint. Counts II and III of the Second Amended Complaint sound in fraud and Plaintiff has failed to plead these causes of action with the requisite particularity. In addition, all of the causes of action in the Second Amended Complaint fail to state a claim because they are preempted by the Supremacy Clause of the United States Constitution and by federal law.

In further support of its motion, Teva Pharmaceuticals USA, Inc. submits the accompanying memorandum of law.

Date: May 2, 2008

TEVA PHARMACEUTICALS USA, INC.

By: /s/ Ameri R. Giannotti  
One of Its Attorneys

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